IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO. 1649 OF 1983

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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CHANDUBHAI NATHABHAI PARMAR & ANR. - Appellant(s)

Versus

DHANABHAI LAXMANBHAI DESAI-DELETED & ANR. - Respondents

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Appearance :

Shri R.N. Shah for Appellant(s) : 1 - 2.

Name of Respondent No.1 has already been deleted.

None for Respondent No.2.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 18/06/2007

ORAL JUDGMENT

The claimants, who are parents of the deceased minor Pratapbhai Chandubhai Parmar, being aggrieved by the judgement and

award dated 1st October, 1982 passed by the learned Member, Motor Accident Claims Tribunal (Main), Vadodara in M.A.C.P. No.22 of 1982, are before this Court with a submission that the learned Tribunal below was not justified in awarding only a sum of Rs.21,900/- though the entitlement of the claimants was Rs.50,000/-.

2. As nobody has filed any Cross Appeal or Cross Objections, this Court is not required to deal with the aspects relating to the accident, death of the deceased and liability/responsibility of the driver and owner of the vehicle.

3. Shri R. N. Shah, learned Counsel for the appellants, submits that looking to the age of the young boy, the multiplier ought to have been sixteen and not thirteen, as applied by the learned Tribunal below. He also submits that the learned Tribunal below was unjustified in assessing the dependency at Rs.1,300/- per year only when it has come on record that the deceased was a brilliant student and was getting scholarship. It is also submitted that the learned Tribunal below was unjustified in holding that the deceased could have earned Rs.400/- per month and would have contributed only 20% amount per month. In support of the claim, he submits that the future prospects of the young boy have not been taken into consideration and the learned Tribunal below arrived at an arbitrary figure.

4. The learned Tribunal has held that the monthly income of the deceased could have been Rs.600/-, but, would have stagnant Rs.400/- per month. The learned Tribunal also, in the opinion of this Court, erred in holding that the reasonable earning of the deceased would be Rs.400/- only per month. In the opinion of this Court, in the changing world, the salary does not include the basic salary, it includes

dearness allowance and other allowances, so also the increments and promotions. In the opinion of this Court, even in the year 1982, the learned Tribunal was obliged and required to consider that the boy after seven years, that is, somewhere in the year 1989 or thereafter, could have earned something good. This Court is of the opinion that the boy could have easily earned a sum of Rs.600/- per month, out of which he could have contributed a sum of Rs.200/- per month to his parents. The yearly dependency can be arrived at Rs.2,400/-.

5. The submission of Shri Shah that the multiplier applied by the learned Tribunal below is on the lower side appears to be justified. In the opinion of this Court, looking to the age of the appellants – parents and the age of the deceased, the multiplier of sixteen would have been appropriate. If the yearly dependency of Rs.2,400/- is multiplied by sixteen, the total amount to be awarded to the claimants would be Rs.38,400/-, which would mean Rs.16,500/- in addition to what has been awarded by the learned Tribunal below.

6. The appeal is allowed and it is hereby directed that the claimants would be entitled to an additional amount of Rs.16,500/- from respondent No.2. The said amount shall carry interest at the rate of 9% per annum from the date of the claim petition till realisation. The appeal to the extent indicated above is allowed. No costs.

[R.S.Garg, J.]

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